

**Instances when the Agency's Citizen Boards did not accept staff recommendations
1993- present**

Water Control Board

1. June 27, 2007- Water Board rejected the staff's recommendation concerning the Omega Protein Consent Order and instructed staff to renegotiate the Order, increasing the penalty provision.
2. September 6, 2006- Water Board denied the staff's recommendation concerning the King William Reservoir. The staff recommended the Board:
 - Approve the extension of the permit and change in receipt dates for the subject reports.
 - Require that the permittee submit an application for permit reissuance concurrent with submittal of the Final Wetland Mitigation Plan.The Board reconsidered its denial at a future meeting and extended the permit with conditions.
3. September 6, 2006- Water Board did not accept staff's recommendation concerning the Galleria Virginia Water Protection Permit. Staff recommended changing the permit to require stream channel restoration at Long Branch Creek in lieu of restoration at Coal Mine Park. The Board reconsidered its denial at a future meeting and issued the permit.
4. September 6, 2006- Water Board amended the staff's recommendation concerning the General Virginia Permit Regulation for Total Nitrogen and Total Phosphorus Discharges and Nutrient Trading in the Chesapeake Bay Watershed in Virginia. The Board amended the staff's recommendation and excluded the changes to Part I. J. 2. E. of the general permit (which relates to the ability to trade credits allocated to unconstructed capacity.)
5. September 27, 2005- Water Board withheld their approval of TMDL reports to be submitted to EPA for their review and approval. The Board indicated they were withholding action until their spring 2006 meeting. The Board was concerned that the TMDL reports identified coal mining activities as a major source of benthic (biological) impairments and the additional economic impacts of implementing the TMDLs.
6. June 17, 2004- Water Board denied staff recommendation to move forward to public hearing for listing four waters located on Shenandoah National Park Land within Madison County: Brokenback Run; Hughes River; Rose River; and White Oak Canyon Run.
7. December 4, 2003- Water Board failed to approve Special Consent Order with civil charges for the Town of Pocahontas. The Board directed staff to modify the order by removing the civil charge (\$1,800) and bring the order back to the Board at their March 2004 meeting.
8. June 19, 2003- Water Board did not accept staff's recommendation concerning issuance of VPDES permits for Casta Line Trout Farms- Craigsville and Middlebrook based on the permittee's objection to certain permit conditions being too stringent. The Board directed staff to continue working with the permittee to resolve points of contention.

9. March 25, 2003- Water Board deferred permit decision on Centerville Properties VWP permit issuance. The deferral was to allow staff time to review additional information submitted at the meeting and provide responses to the Board on issues of avoidance and minimization and compensatory mitigation. A revised permit was issued by the Board at a later meeting.
10. January 1, 2003- Water Board directed staff to renegotiate the penalty in the proposed consent order for Baymark Construction from \$980 to a larger amount- between \$5,000-\$10,000. A revised consent order, with a \$5,000 penalty, was approved by the Board at a later meeting.
11. March 27, 2000- Water Board tabled the issue of the proposed issuance of a VWP permit-No. 89-0868 to LG&E Westmoreland - Altavista until comments were requested from the Virginia Department of Health, the Virginia Marine Resource Commission, and the Virginia Department of Agriculture and Consumer Services. A permit for LG&E was issued by the Board at a later meeting.
12. April 29, 1997- Water Board- proposed issuance of permit VA0089401- Newstead Landing Sewage Treatment Plant in Henrico County- Board delayed decision on permit issuance/denial pending an evaluation of ownership and maintenance issues. The permit was issued at a later meeting.
13. October 11, 1995- Water Board directed staff to modify the draft permit (No. VPA02084 to Virginia Polytechnic Institute and State University) to shorten the deadline for submitting manuals, plans, and studies, and to issue the VPA permit.
14. April 26, 1993- Water Board denied VPDES permit to Weaver Mobile Home Park in Rockingham County- VA0086576 citing: lack of demonstrated need; concern with discharge being the only source of water in the stream during dry conditions; concern that these types of systems are not typically adequately maintained and operated; and failure of applicant to attend hearing on the permit or the Board meeting.

Air Pollution Control Board

1. March 26, 2007, April 10, 2007, and May 23, 2007 – Air Board did not accept staff permitting and consent order recommendations relative to the Mirant Potomac River Generating Station.
2. January 16, 2007- Air Board amended the staff recommendation concerning the Mercury Compliance in Nonattainment Areas Rule (G06) to bar the transfer of credits from out of state facilities. Air Board had deferred action on the Clean Air Mercury Rule (C06) presented by staff at their September 2006 meeting and had directed the staff to solicit public comment.
3. December 6, 2006- Air Board amended the staff recommendation concerning the Clean Air Interstate Rule (E05) regulation to require allowances for Energy Efficiency/Renewable Energy projects to be retired. Board also amended regulation to limit the applicability of the compliance demonstrations for nonattainment areas to units within a source rather than within a

nonattainment area. Board also changed the due dates for submittal of the compliance demonstrations for nonattainment areas.

4. December 8, 2005- Air Board adopted final amendments to the major new source review reform regulations (E03) that did not contain the demand growth exclusion as provided in the corresponding federal regulation. Subsequently the board was petitioned and ultimately adopted a regulation that contained a demand growth exclusion with some revision on June 21, 2006.
5. December 8, 2005- Air Board approved the staff recommendation concerning a proposed Clean Air Interstate Rule (E05) regulation, but identified a list of specific issues to be included in the notice for public comment including, but not limited to, renewable energy allowances as well as alternate allocation methodologies.
6. December 8, 2005- Air Board deferred action on a Hg Budget Rule (with intrastate trading provisions) proposal presented by staff and directed the staff to develop a rule similar to the STAPPA/ALAPCO model rule.
7. June 29, 2004- Air Board directed the staff to amend the draft permit for CPV Warren to include a federally enforceable provision in the permit for NO_x offsets, equivalent to 1.15 times its actual emissions, as recommended by the Federal Land Manager.
8. November 5, 2003- Air Board added some localities to the recommended list of VOC and NO_x Emissions Control Areas (C03). The localities were those localities with the potential to become nonattainment areas under the 8-hour ozone standard, but were not identified as being in nonattainment at that time.
9. November 5, 2003- Air Board deferred action on a regulation to allow auctioning of the new source set-aside budget (F02) under the NO_x Budget Trading Program and directed the staff to solicit public comment. The staff conducted the comment period and Board took final action on the emergency regulation at a special meeting on December 8, 2003.

Waste Management Board

None Identified

[Note: This list is not necessarily all inclusive. There may be other instances where the Board's action differed, but that information was not readily available from the files at hand.]